

A General Information

California law is generally the same as federal law regarding what military pay (active duty, disability, reserve and retirement) is taxable. However, active duty military pay is not included as part of California adjusted gross income (AGI) unless the military member is domiciled in California and the pay is earned in California.

B Filing Requirements

Residents

You must file Form 540, California Resident Income Tax Return, Form 540A, California Resident Income Tax Return, Form 540EZ, California Resident Income Tax Return for Single and Joint Filers With No Dependents or TeleFile if your AGI is greater than \$8,128 (\$16,256 if married) or your gross income is over \$10,160 (\$20,320 if married), regardless of your AGI.

Nonresidents and Part-Year Residents

You must file Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, if you have any income from California sources and your AGI from all sources is greater than \$8,128 (\$16,256 if married) or your gross income from all sources is over \$10,160 (\$20,320 if married) regardless of your AGI or if you owe \$1 or more of tax.

Note: Even if you are not required to file a California income tax return, you should file for a refund if California state income tax was withheld from your pay.

C Joint or Separate Returns

Active duty military members and their spouses who file joint federal returns may file separate returns for California.

If separate returns are filed, the resident spouse (if a full-year resident) must file Form 540 or Form 540A. The nonresident or part-year resident spouse must file Form 540NR. If a joint return is filed and one spouse is a nonresident or part-year resident, you must file Form 540NR. You should figure your tax both jointly and separately to determine which filing status will result in less tax to pay.

Note: After filing a joint return, taxpayers cannot elect to file separately after the due date for filing the tax return has passed.

Division of Income

The domicile of the spouse earning the income determines the division of income between the spouses when separate returns are filed. (Please see the definition of domicile under D, Are You a Resident?) Each spouse must follow the laws of his or her state of domicile to determine if the income is separate or community property. California is a community property state. When separate returns are filed, each spouse must report half of the community income plus all separate income on each return.

California Revenue and Taxation Code (R&TC) Section 17140.5 specifically excludes from gross income any military income that might be attributable to a resident spouse under community property laws **only if** the military member is a

nonresident, domiciled in a community property state other than California and the spouse is a California resident.

For more information, see Resident Spouse under F, Income Subject to California Tax. For an example, see the fourth category on page 3 of this publication.

D Are You A Resident?

Active Duty Military

Generally, for tax purposes, you are considered to be a resident of the state from which you entered the military. Section 514 of the federal Soldiers' and Sailors' Civil Relief Act (50 U.S.C. App. Section 574) of 1940, provides that:

- A person shall not be deemed to have lost a residence or domicile in any state solely by reason of being absent therefrom in compliance with military orders.
- A person shall not be deemed to have acquired a residence or domicile in any other state solely by reason of being there in compliance with military orders.
- Compensation for military service is not considered to be from sources within the state where a member is stationed if that state is not the member's domicile.

An individual may be considered to be a resident of several places simultaneously for various purposes, but can have only one domicile.

Domicile is defined as the place:

- Of a true, fixed home and a permanent establishment;
- To which you intend to return; and
- Which you intend to make your permanent home.

For tax purposes, a member of the military is not considered a resident of California unless he or she declares California as his or her domicile.

An individual domiciled in California when entering the military is considered to be a:

- Resident while stationed in California;
- Resident while on Temporary Duty (TDY) assignments outside California regardless of the duration; and
- Nonresident while stationed outside California on Permanent Change of Station (PCS) orders.

Military members domiciled outside of California are considered to be nonresidents for tax purposes even when stationed in California on PCS orders.

Spouses and Retired Military

For purposes of determining residency, retired military members and civilian spouses of military members are not covered by the federal Soldiers' and Sailors' Civil Relief Act of 1940. Therefore, for tax purposes, their residency is determined under state laws. R&TC Section 17014 defines a resident as:

1. Every individual who is in this state for other than a temporary or transitory purpose; and

2. Every individual domiciled in this state who is outside the state for a temporary or transitory purpose.

For more information, get FTB Pub. 1031, Guidelines for Determining Resident Status.

E Examples of Resident Status

California Military Personnel in California

Military members whose domicile is California are residents of California and are subject to tax on all income, regardless of source, while stationed in California on permanent military orders.

California Military Personnel Outside California

California military members who leave California under PCS orders become nonresidents of California for income tax purposes when they leave California. All income received or earned prior to departure is subject to tax. After departure, only income from California sources is subject to tax. A nonresident is generally not taxed by California on income from intangibles, such as dividends from stocks or interest from bonds or bank accounts.

California military members who leave California under temporary duty assignment continue to be California residents even though absent from the state.

California military members on a ship whose home port is in California remain California residents while on sea duty, regardless of the ship's location.

Non-California Military Personnel

Military members who are domiciled outside California remain nonresidents, even though stationed in California, unless they establish a California domicile.

Nonmilitary Spouse

If the spouse of the military member remains in California, the spouse is considered a California resident. As a California resident, the spouse is subject to tax on all separate income, regardless of where it is earned. If the military member retains a California domicile, the spouse is also subject to tax on his or her one-half community property share of all income, including the military member's military pay.

The spouse of a military member who is domiciled in California but leaves the state with the military spouse on PCS orders outside California becomes a nonresident upon leaving California. All income received or earned while a California resident is subject to tax. While a nonresident, only income from California sources is subject to tax.

F Income Subject to California Tax

In general, California taxes all of the income you received while you were a resident of California and all of the income you received from California sources while you were a nonresident. California source income includes income from:

- Real or tangible personal property located in California;
- A trade or business located in California; and

- Nonmilitary services performed in California such as salaries or wages from a second job held by a nonresident military member.

Income from intangible property (such as stocks, bonds or bank accounts), regardless of the location of the payer, is sourced in the state of residence of the recipient. Therefore, intangible income is taxable by California if received by a California resident and it is not taxable by California if received by a nonresident.

Military pay is not included in California source income unless the military person is domiciled in California and stationed in California.

For tax purposes, income is allocated between spouses based upon whether the person receiving the income is domiciled in a community property or separate property state.

The community property states are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin.

Puerto Rico is a U.S. territory that is considered community property. All other states and U.S. territories are separate property.

Example: Lt. Tucker is domiciled in New York, a separate property state, and Mrs. Tucker is domiciled in California, a community property state. Wages earned by Lt. Tucker are his separate income for tax purposes. Wages earned by Mrs. Tucker are community property for tax purposes and each spouse must report his or her community half if they are filing separate returns.

Income from joint accounts is assumed to belong equally to each party. Therefore, if you and your spouse file separate returns, each must report one-half of any taxable income from a joint account.

Nonresident Military Personnel

Under the federal Soldiers' and Sailors' Civil Relief Act of 1940, military members who are not domiciled in California cannot be taxed by California on pay received for military services performed in California, even though they were stationed in California for the entire year. However, all other income of nonresident military members from California sources is subject to California tax.

Note: When you compute your total AGI from all sources under California law on Schedule CA (540NR), California Adjustments – Nonresidents or Part-Year Residents, do not subtract your military income or non-California income from your federal adjusted gross income in column A.

However, to compute your part-year or nonresident California AGI (column E), do **not** include

your military income and other non-California income.

Resident Spouse

Resident spouses are taxed on their entire share of taxable income. If a military member is domiciled in California, the resident spouse's community half of military pay is included in total adjusted gross income regardless of the military member's residency status.

If a military member is domiciled in a community property state other than California, the resident spouse's community half of military pay is not included in total adjusted gross income. In this case only, you can subtract the resident spouse's community half of military income on Schedule CA (540), California Adjustments – Residents; or Schedule CA (540NR), California Adjustments – Nonresidents or Part-Year Residents.

Example: Lt. Pope is a nonresident domiciled in a community property state (other than California). His spouse, Mrs. Pope, is a resident of California. Mrs. Pope can make an adjustment on Schedule CA (540) or Schedule CA (540NR), column B, for half (50%) of Lt. Pope's military pay in accordance with R&TC Section 17140.5. See page 3 for the division of pay between spouses.

G Tax Computation for Nonresidents

The tax imposed on nonresidents is determined by calculating the amount of tax as if the taxpayer was a resident and taxable on all income. This tax is then multiplied by a ratio. The ratio is computed by dividing California AGI (Schedule CA (540NR), column E) by AGI from all sources (Schedule CA (540NR), column D). Include in Schedule CA (540NR), column D, the military income, California source income and other non-California source income. Include in Schedule CA (540NR), column E only the California source income.

This calculation is done on Schedule CA (540NR) and is required on all nonresident income tax returns. It is not applicable for the return of a full-year resident unless the full-year resident files a joint nonresident return.

Federal courts have concluded that this method to compute tax for nonresidents does not violate the Soldiers' and Sailors' Civil Relief Act of 1940.

H Renter's Credit

Due to a tax law change, renter's credit has been eliminated for tax years 1993 through 1996. You may not claim the credit on your personal income tax return during those years.

I Military Retirement Pay

Military retirement pay is taxable if it is received by a California resident. This applies even if the military pension was earned while you were a California nonresident.

Example: Joe Smith was a nonresident of California stationed outside California all of his active duty military career. He retires and moves to California. His military pension received after he moves to California is taxable by California.

Nonresidents of California are not taxed on military retirement pay received after December 31, 1995.

For more information, get FTB Pub. 1005, Pension and Annuity Guidelines.

J Automatic Extension – Outside United States

Military personnel who are outside the United States on the due date for filing a return and for paying the tax are granted an automatic extension, without penalty or interest, up to 180 days after their return to the United States. If a joint return is filed, this extension applies even though one spouse remained in California.

K Alternative Minimum Tax

If you claim certain types of deductions and income exclusions, you may be subject to California's alternative minimum tax. Generally, if you filed federal Form 6251, Alternative Minimum Tax, you must also file California's Schedule P (540), Alternative Minimum Tax and Credit Limitations – Residents, with Form 540, or Schedule P (540NR), Alternative Minimum Tax and Credit Limitations – Nonresidents or Part-Year Residents, with Form 540NR.

L Examples of Income Reporting Requirements

The following chart includes examples that illustrate California's income reporting requirements. To use the chart, read down the first column to find your status (Military member (M) or Spouse (S)), then read across to find the type of return to file and the type of income to report.

STATUS

INCOME REPORTING REQUIREMENTS

Note: M = Military member, S = Spouse

SINGLE TAXPAYERS

M — Domiciled in California. Stationed in California all year.	File Form 540, Form 540A, Form 540EZ or TeleFile. Report all income, including military pay.
M — Domiciled outside California. Stationed in California.	File Form 540NR. Report all income. Do not subtract military income from federal amounts on Schedule CA (540NR), column A. California AGI, column E, includes California source income only. Do not include military income. If M has no California source income, M is not required to file a California return.

MARRIED TAXPAYERS

M — Domiciled in California. Stationed in California all year.	File Form 540, Form 540A or Form 540EZ. If filing a joint return, report all income. If filing separate returns, each spouse must report one-half of all community income, including military pay, and his or her separate income (if any) on Schedule CA (540).
S — Domiciled in California. Resided in California all year.	
M — Domiciled in California. Stationed outside California all year.	If filing a joint return, file Form 540NR. Report all income, including military income, on Schedule CA (540NR), column D. California AGI, column E, includes all California source income, all separate income of the resident spouse and the spouse's community one-half of all non-California source income. This includes the community one-half of military pay and intangible income. If filing separate returns, M must file Form 540NR. Report all separate income and one-half of all community income, including military income, on Schedule CA (540NR), column D. Do not subtract military income from Schedule CA (540NR), column A amounts. California AGI, column E, includes all separate California source income and one-half of community California source income. Do not include any military income, intangible income or other non-California source income in column E. If filing separate returns, S should file Form 540 or Form 540A. Report all separate income and one-half of all community income, including military income on Schedule CA (540).
S — Domiciled in California. Resided in California all year.	
M — Domiciled in California. Stationed outside California all year.	If M or S has California source income, file Form 540NR, whether filing joint or separate returns. Report all income on Schedule CA (540NR), column D. Do not subtract military income from Schedule CA (540NR), column A. California AGI includes all California source income and does not include any military income. If there is no California source income, M and S do not have to file a California return.
S — Domiciled in California. Resided outside California all year.	
M — Domiciled in community property state (other than California). Stationed in California all year.	If filing a joint return, file Form 540NR. Report all income on Schedule CA (540NR), column A. Subtract S's community-half of military income in column B. California AGI, column E, includes all California source income, plus S's share of intangible income and S's other non-California source income. Do not include M's military income, M's share of intangible income, or M's other non-California source income in column E. If filing separate returns, M must file Form 540NR. Report on Schedule CA (540NR), column D, all separate income and one-half of all community income, including military income. California AGI, column E, includes all separate California source income and one-half of California source community income but does not include any military income or intangible income. If filing separate returns, S should file a Form 540. Report all separate income and one-half of all community income, including S's community-half of military income on Schedule CA (540), column A. On Schedule CA (540), column B, subtract S's community-half of military pay as an adjustment to Federal AGI.
S — Domiciled in community property or separate property state. Resided in California all year.	
M — Domiciled in a separate property state. Stationed in California all year.	If filing a joint return, file Form 540NR. Report on Schedule CA (540NR), column D, all income. Do not subtract military income from federal amounts. California AGI, column E, includes all California source income plus S's intangible income and S's other non-California source income but does not include any military income. If filing separate returns, M should file Form 540NR. Report on Schedule CA (540NR), column D, all income, including military pay, M's intangible income, California source income, and non-California source income. M's California AGI, column E, includes all M's California source income, but not any military income or intangible income. If M has no California source income, M does not have to file a California return. If filing separate returns, S should file Form 540 or Form 540A. Report all separate income of S from all sources.
S — Domiciled in a separate property state. Resided in California all year.	
M — Domiciled in a separate property state. Stationed in California all year.	If filing a joint return, file Form 540NR. Report on Schedule CA (540NR), column D, all income. Do not subtract military income from federal amounts. California AGI includes all California source income plus S's intangible income and S's other non-California source income but does not include any military income. If filing separate returns, M must file Form 540NR. Report on Schedule CA (540NR), column D, all separate income including military income and one-half of S's community income. California AGI includes all separate California source income and one-half of California source community income but does not include any military income or M's intangible income. If filing separate returns, S should file Form 540. Report all separate income and one-half of all community income on Schedule CA (540), column A.
S — Domiciled in community property state. Resided in California all year.	

How to Get California Tax Information

F.A.S.T. Toll-Free Phone Service

Fast Answers about State Taxes is the toll-free phone service you can use to order tax forms. If you have moved in the last year, you must call 1-800-852-5711 to get forms.

F.A.S.T. is available in English and Spanish to callers with touch-tone or rotary dial telephones.

When is F.A.S.T. Available?

To answer your questions, F.A.S.T. is available 24 hours a day, seven days a week. To order forms or to find out about your tax refund, F.A.S.T. is available from 6:00 a.m. to 10:00 p.m., seven days a week, except state holidays.

F.A.S.T. Telephone Numbers

From within the United States 1-800-338-0505
From outside the United States (not toll-free) 1-916-845-6600
For hearing impaired with TDD 1-800-822-6268

Regular Toll-Free Phone Service

Our regular toll-free telephone service is available from 7:00 a.m. until 8:00 p.m. Monday through Friday from January 2 through April 15, 1997. The best times to call are between 7:00 and 10:00 in the morning and between 6:00 and 8:00 in the evening. Service is also available on Saturdays, April 5, and April 12, from 8:00 a.m. until 5:00 p.m. After April 15, service is available Monday through Friday, between 8:00 a.m. and 5:00 p.m.

From within the United States, call 1-800-852-5711
From outside the United States, call (not toll-free). 1-916-845-6500
For federal tax questions, call 1-800-829-1040

Bilingual Assistance

Para obtener servicio bilingüe de información sobre impuestos o formularios, llame al número de teléfono (anotado arriba) que le corresponde.

Letters

We can serve you quickly if you call us for information to complete your California tax return. However, you may want to write to us if you are replying to a notice we sent you or to get a written reply.

If you write to us, be sure to include your social security number, your daytime and evening telephone numbers and a copy of the notice with your letter. Send your letter to:

FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0040

We will acknowledge your letter within six to eight weeks. In some cases, we may need to call you for additional information.

Volunteer Income Tax Assistance

At more than 1,500 sites throughout California, trained volunteers provide free assistance to low-income, senior, disabled and non-English speaking persons who need to file simple federal and state income tax returns. Many military bases also provide this service for members of the armed forces.

Call the Franchise Tax Board at 1-800-852-5711 to find the volunteer assistance location nearest you.

Where to Get Tax Forms

By Internet – If you have Internet access, you may download, view and print California income tax forms and publications. Our Internet address is:

<http://www.ftb.ca.gov>

By phone – Use F.A.S.T. to order 1994, 1995 and 1996 California tax forms and 1996 federal forms. To order a form:

- Call 1-800-338-0505.
- Select Personal Income Tax Form Requests.
- Enter the three-digit code when you are instructed to do so.

We will send you two copies of each tax form and one copy of each set of instructions. Please allow two weeks to receive your order.

In person – Most libraries, post offices and banks provide free California tax booklets during the filing season. Many libraries and some quick print businesses have forms and schedules for you to photocopy (you may have to pay a nominal fee). Note that employees at libraries, post offices, banks and quick print businesses cannot provide tax information or assistance.

By mail – Write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307